



The HIGH ROAD

"Preserving public confidence in public servants."

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Hawaii State Ethics Commission

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GOVERNOR REAPPOINTS COMMISSIONERS ABDUL AND SAKATA

Governor Cayetano has reappointed Leolani Abdul and Carl Sakata to second terms on the State Ethics Commission. Ms. Abdul and Mr. Sakata were appointed to the Commission in 1994 and recently completed their first four-year terms as commissioners. They were both reappointed to second terms that will expire on June 30, 2002.

LESLIE BAKER LEAVES COMMISSION

Leslie Baker has resigned from the State Ethics Commission. Ms. Baker was appointed to the Commission in 1997. In January of 1998, she was elected vice chairperson. She brought much warmth, enthusiasm, and integrity to her work for the Commission and will be sorely missed. We send our best wishes and aloha to Ms. Baker.

1998 LEGISLATIVE SESSION

This year, the Legislature amended the State Ethics Code and the State Lobbyists Law. The State Ethics Commission testified in support of these amendments. The following changes were passed by the Legislature and approved by the Governor:



State Ethics Code.
The Legislature
repealed a section of

the ethics code that had required the State Ethics Commission to report the names of persons who examined public financial disclosure statements to the government officials whose records were examined. (Act 32, Session Laws of Hawaii, Nineteenth Legislature, 1998.) A state court struck down this section in 1992 as being unconstitutional. After the court's decision, the Commission strongly urged the Legislature to repeal this section because it was invalid and unenforceable.

State Lobbyists Law. A person who files a frivolous lobbying charge with the State Ethics Commission may be civilly liable for attorney's fees and other

costs incurred by the person charged. Under the law, the Commission must determine whether or not a charge is "frivolous." The Legislature amended the Lobbyists Law by requiring the Commission to formally determine whether or not a lobbying charge is frivolous only upon the request of the person charged. (Act 17, Session Laws of Hawaii, Nineteenth Legislature, 1998.) Previously, the Commission had to determine whether or not a charge was frivolous in every case where the Commission did not find a violation. This was an unnecessary exercise in cases where a respondent was not interested in pursuing a civil lawsuit against a complainant. As amended, the law now requires the Commission to determine whether or not a charge is frivolous only upon the written request of the person charged.

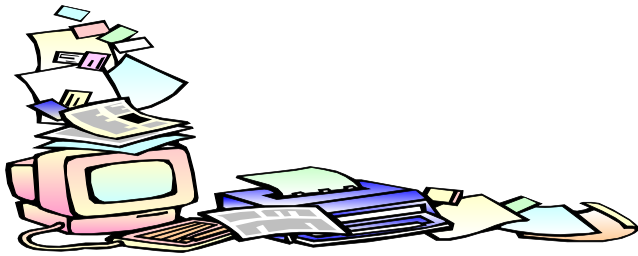
CANDIDATE WALK-THROUGHS AND THE STATE ETHICS CODE

During the election season, candidates who are campaigning for election to government office sometimes ask for permission to walk through state departments and agencies to meet with state officials and employees. This practice has been referred to as "candidate walk-throughs." State officials and employees, as well as candidates themselves, frequently contact the State Ethics Commission to ask whether candidate walk-throughs are permissible under the State Ethics Code.

The section of the State Ethics Code that is relevant to candidate walk-throughs is section 84-13, HRS, entitled "Fair Treatment." Section 84-13 prohibits the use of one's official position to secure or grant unwarranted privileges or advantages for oneself or others.

Section 84-13 does not prohibit candidate walk-throughs so long as all candidates who are competing with each other are treated equally and accorded the same opportunities. Since section 84-13 only prohibits preferential treatment on the part of a state official or employee, if there is no preferential treatment, the decision whether or not to allow candidate walk-throughs becomes an administrative decision for a state agency. However, if a state agency decides to allow candidate walk-throughs, section 84-13 must be complied with.

The State Ethics Commission has developed guidelines to assist state agencies that are considering whether or not to allow candidate walk-throughs. The guidelines were explained in a flyer entitled "Candidate Walk-Throughs and the State Ethics Code," which was distributed to all state agencies in June.



LEAVING STATE SERVICE?

Are you planning to leave state service in the near future? If so, you should be aware of the post-employment restrictions of the State Ethics Code. The restrictions apply to state legislators and state employees (under the ethics laws, this includes board and commission members) who have terminated state service.

The purpose of the post-employment restrictions is to prevent a former state official or employee from engaging in "influence peddling" based upon contacts and associations made while in government service, either for personal gain or the benefit of others. Some of the restrictions mandate a "cooling-off period" after individuals leave state service to reduce the possibility that former state officials or employees will receive preferential treatment due to contacts and associations made while in government.

The post-employment restrictions include the following prohibitions:

Confidential information. Former legislators and employees may not disclose confidential information that is acquired in the course of their official duties, or use confidential information for personal gain. HRS §84-18(a).

Representation by former legislators. Former legislators may not represent anyone, for a fee, on matters in which they participated as legislators or on matters involving official action by the Legislature. This restriction applies for 12 months after the termination of state employment. HRS §84-18(b).

Representation by former employees. Former employees may not represent anyone, for a fee, on matters in which they participated as employees or on matters involving official action by the state agency or subdivision which the former employees served. This restriction applies for 12 months after the termination of state employment. HRS §84-18(c).

State contract awards. A state agency may not contract with anyone who is represented or assisted in the matter by a person who (1) within the preceding 2 years was an employee of the agency, and (2) participated while in state office in the contract matter. HRS §84-15(b).

The post-employment restrictions permit an agency to contract with a former legislator or employee to act on a matter on behalf of the State.

If you are planning to leave state service in the near future, you should contact the State Ethics Commission for more information about the post-employment restrictions. The Commission has a flyer that contains all of the restrictions. In addition, the Commission's attorneys are available to provide confidential advice to callers about the specific application of the post-employment restrictions of the State Ethics Code.



**The High Road is a publication
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